



March 28, 2003

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## ENGROSSED SENATE BILL No. 120

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DIGEST OF SB 120 (Updated March 26, 2003 10:53 AM - DI 96)

**Citations Affected:** IC 20-8.1.

**Synopsis:** Employment of minors. Requires an employer to provide one or two rest breaks totaling at least 30 minutes to a child scheduled to work at least six consecutive hours. Provides that an employer that permits a child to work between the hours of 10 p.m. and 6 a.m. in an establishment that is open to the public unless another employee at least 18 years of age also works in the establishment during those hours commits a hazardous occupation violation.

**Effective:** Upon passage; July 1, 2003.

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### Harrison, Howard, Antich

(HOUSE SPONSORS — KLINKER, WHETSTONE)

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January 7, 2003, read first time and referred to Committee on Pensions and Labor.

January 27, 2003, reported favorably — Do Pass.

January 30, 2003, read second time, ordered engrossed.

January 31, 2003, engrossed.

February 3, 2003, read third time, passed. Yeas 47, nays 0.

#### HOUSE ACTION

March 13, 2003, read first time and referred to Committee on Labor and Employment.

March 27, 2003, amended, reported — Do Pass.

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ES 120—LS 6528/DI 102+



March 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 120

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 20-8.1-4-20.5, AS ADDED BY P.L.122-2001,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 20.5. (a) ~~Except as provided in subsection (b),~~  
4 This section applies to occupations for which a child less than eighteen  
5 (18) years of age may be employed or allowed to work under this  
6 chapter, but does not apply to children subject to:  
7 (1) section 2 of this chapter; or  
8 (2) section 20(m)(2) or 20(m)(3) of this chapter.  
9 ~~(b) This section does not apply to a child less than eighteen (18)~~  
10 ~~years of age employed by a camp or other facility that:~~  
11 ~~(1) provides an opportunity, either gratuitously or for~~  
12 ~~compensation, for outdoor group living for all or any part of a~~  
13 ~~day;~~  
14 ~~(2) provides recreational, health, educational, or sectarian related~~  
15 ~~activities; and~~  
16 ~~(3) is operated by a nonprofit entity.~~  
17 ~~(c) (b) A person, firm, limited liability company, or corporation that~~

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employs a child less than eighteen (18) years of age shall provide ~~a the~~  
~~child one (1) or two (2) rest break of breaks totaling~~ at least thirty  
 (30) minutes ~~to a if the child who~~ is scheduled to work at least six (6)  
 consecutive hours.

(d) The rest break must be available to the child during the time  
 beginning three (3) hours after and ending five (5) hours after the child  
 begins the child's period of duty.

SECTION 2. IC 20-8.1-4-25.5 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2003]: Sec. 25.5. (a) This section does not  
 provide an exception to the limit on the number of hours a child is  
 permitted to work under section 20 of this chapter.

(b) It is unlawful for a person, firm, limited liability company,  
 or corporation to permit a child who is:

(1) less than eighteen (18) years of age; and

(2) employed by the person, firm, limited liability company, or  
 corporation;

to work after 10 p.m. and before 6 a.m. in an establishment that is  
 open to the public, unless another employee at least eighteen (18)  
 years of age also works in the establishment during the same hours  
 as the child.

(c) A violation of subsection (b) is a hazardous occupation  
 violation subject to section 31(a)(6) of this chapter.

SECTION 3. IC 20-8.1-4-31, AS AMENDED BY P.L.122-2001,  
 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2003]: Sec. 31. (a) A person, firm, limited liability company,  
 or corporation that violates this chapter may be assessed the following  
 civil penalties by the department of labor:

(1) For an employment certificate violation under section 1 or 13  
 of this chapter, the following:

(A) A warning letter for any violations identified during an  
 initial inspection.

(B) Fifty dollars (\$50) per instance for a second violation  
 identified in a subsequent inspection.

(C) Seventy-five dollars (\$75) per instance for a third violation  
 that is identified in a subsequent inspection.

(D) One hundred dollars (\$100) per instance for a fourth or  
 subsequent violation that:

(i) is identified in an inspection subsequent to the inspection  
 under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(2) For a posting violation under section 23 of this chapter, the



following:

- (A) A warning letter for any violations identified during an initial inspection.
  - (B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.
  - (C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
  - (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
    - (i) is identified in an inspection subsequent to the inspection under clause (C); and
    - (ii) occurs not more than two (2) years after a prior violation.
- (3) For a termination notice violation under section 11 of this chapter, the following:
- (A) A warning letter for any violations identified during an initial inspection.
  - (B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.
  - (C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
  - (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
    - (i) is identified in an inspection subsequent to the inspection under clause (C); and
    - (ii) occurs not more than two (2) years after a prior violation.
- (4) For an hour violation of not more than thirty (30) minutes under section 20 of this chapter, the following:
- (A) A warning letter for any violations identified during an initial inspection.
  - (B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.
  - (C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
  - (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
    - (i) is identified in an inspection subsequent to the inspection under clause (C); and
    - (ii) occurs not more than two (2) years after a prior violation.
- (5) For an hour violation of more than thirty (30) minutes under section 20 of this chapter, the following:
- (A) A warning letter for any violations identified during an initial inspection.



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- 1 (B) One hundred dollars (\$100) per instance for each violation  
 2 identified in a subsequent inspection.  
 3 (C) Two hundred dollars (\$200) per instance for a third  
 4 violation that is identified in a subsequent inspection.  
 5 (D) Four hundred dollars (\$400) per instance for a fourth or  
 6 subsequent violation that:  
 7 (i) is identified in an inspection subsequent to the inspection  
 8 under clause (C); and  
 9 (ii) occurs not more than two (2) years after a prior violation.  
 10 (6) For a hazardous occupation violation under section 25 or 25.5  
 11 of this chapter, the following:  
 12 (A) A warning letter for any violations identified during an  
 13 initial inspection.  
 14 (B) One hundred dollars (\$100) per instance for each violation  
 15 identified in a subsequent inspection.  
 16 (C) Two hundred dollars (\$200) per instance for a third  
 17 violation that is identified in a subsequent inspection.  
 18 (D) Four hundred dollars (\$400) per instance for a fourth or  
 19 subsequent violation that:  
 20 (i) is identified in an inspection subsequent to the inspection  
 21 under clause (C); and  
 22 (ii) occurs not more than two (2) years after a prior violation.  
 23 (7) For an age violation under section 21 or 21.5 of this chapter,  
 24 the following:  
 25 (A) A warning letter for any violations identified during an  
 26 initial inspection.  
 27 (B) One hundred dollars (\$100) per instance for each violation  
 28 identified in a subsequent inspection.  
 29 (C) Two hundred dollars (\$200) per instance for a third  
 30 violation that is identified in a subsequent inspection.  
 31 (D) Four hundred dollars (\$400) per instance for a fourth or  
 32 subsequent violation that:  
 33 (i) is identified in an inspection subsequent to the inspection  
 34 under clause (C); and  
 35 (ii) occurs not more than two (2) years after a prior violation.  
 36 (8) For each minor employed in violation of section 21(b) of this  
 37 chapter, the following:  
 38 (A) A warning letter for any violations identified during an  
 39 initial inspection.  
 40 (B) One hundred dollars (\$100) per instance for each violation  
 41 identified in a subsequent inspection.  
 42 (C) Two hundred dollars (\$200) per instance for a third

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violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(9) For each violation of section 20.5 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(b) A civil penalty assessed under subsection (a):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.

(c) For purposes of determining whether a second violation has occurred when assessing a civil penalty under subsection (a), a first violation expires one (1) year after the date of issuance of a warning letter by the department of labor under subsection (a).

(d) For purposes of determining recurring violations of this section, each location of an employer shall be considered separate and distinct from another location of the same employer.

(e) There is established an employment of youth fund for the purpose of educating affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter. One-half (1/2) of the fund each year shall be used for the purpose of the education provision of this subsection. This portion of the fund may be used to award grants to provide educational programs. The remaining one-half (1/2) of the fund shall be used each year for the expenses of hiring and salaries of additional inspectors to enforce this chapter under section 29 of this chapter. All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this

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1 chapter. The fund shall be administered by the department of labor.  
2 The expenses of administering the fund shall be paid from money in  
3 the fund. The treasurer of state shall invest the money in the fund not  
4 currently needed to meet the obligations of the fund in the same  
5 manner as other public funds may be invested. Interest that accrues  
6 from these investments shall be deposited in the fund. Money in the  
7 fund at the end of a state fiscal year does not revert to the state general  
8 fund. Revenue received from civil penalties under this section shall be  
9 deposited in the employment of youth fund.

10 SECTION 4. **An emergency is declared for this act.**

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## SENATE MOTION

Mr. President: I move that Senator Antich be added as coauthor of Senate Bill 120.

HARRISON

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SENATE MOTION

Mr. President: I move that Senator Howard be added as second author of Senate Bill 120.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 120, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 120 as introduced.)

HARRISON, Chairperson

Committee Vote: Yeas 9, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Senate Bill 120, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 2, delete "more" and insert "**two (2)**".

Page 2, line 3, reset in roman "six (6)".

Page 2, line 3, delete "eight".

Page 2, line 4, delete "(8)".

Page 2, between lines 21 and 22, begin a new paragraph and insert:

**"(c) A violation of subsection (b) is a hazardous occupation violation subject to section 31(a)(6) of this chapter."**

and when so amended that said bill do pass.

(Reference is to SB 120 as printed January 28, 2003.)

LIGGETT, Chair

Committee Vote: yeas 12, nays 0.

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